

## **MEETING WITH PERFORMANCE TRACK MEMBERS AND EPA'S OFFICE OF SOLID WASTE AND EMERGENCY RESPONSE**

**MARCH 30, 2005  
Washington, DC**

### **Welcome and Introductions -- Jay Benforado (Facilitator), director, National Center for Environmental Innovation**

### **Introductory Remarks -- Stephanie Daigle, acting associate administrator, Office of Policy, Economics, and Innovation**

It is important for EPA to continually develop new ideas for rewarding Performance Track members. These incentives should emphasize flexibility without compromising environmental standards. OPEI is very excited about the upcoming OSWER rulemakings and their potential benefits to Performance Track members.

### **Introductory Remarks -- John Flatley, Performance Track Participants Association**

PTPA supports expanding incentives that improve flexibility without backsliding on environmental protection. PTPA's key emphases include helping EPA to develop ideas for recognizing and rewarding beyond-compliance environmental performance. This meeting is an important opportunity to do just that. PTPA's ideal outcomes from the meeting include (1) learning what OSWER needs from members; (2) outlining barriers to the successful design and implementation of incentives; and (3) identifying how OSWER's goals mesh with those of Ptrack.

### **Introductory Remarks -- Steve Cobb, Alabama Department of Environmental Mgmt.**

Incentives and performance-based management are an excellent opportunity to save time and resources for all (i.e., members as well as government) while maintaining a focus on human health and the environment. States fully support flexibilities which promote environmental excellence.

### **Introductory Remarks -- Tom Dunne, Acting Assistant Administrator, Office of Solid Waste and Emergency Response**

Performance Track stands out among other EPA voluntary programs. The program's common sense approach towards environmental improvement has proven valuable to both members and the Agency. OSWER's strategic plan has historically been oriented toward the Superfund program. We are moving more in the direction of brownfields, USTs, and land revitalization. We envision increased opportunities to work with Ptrack members toward common goals. For example, OSWER and Ptrack both emphasize the importance of measuring results. As a result, Ptrack members might be ideal participants in OSWER's "Resource Conservation Challenge" (RCC). OSWER recognizes that businesses, by their nature, must care about the bottom line. To

the extent that Ptrack entails financial investment on the part of members, it also represents a risk.

## **Introductory Discussion**

Member: We find the Agency's comments very encouraging, especially the acknowledgement of the financial risks inherent to Ptrack participation. We ask regulators to take a risk as well: trust your highest-performing facilities enough to ease burdensome regulations.

Member: "Continuous industrial process" component of the Definition of Solid Waste (DSW) rulemaking is an opportunity for EPA to demonstrate its commitment to reducing burden.

Member: DSW, if revised, would allow us to increase solvent recycling. TRI data bear out the opportunities currently forgone due to regulatory inefficiencies.

Jay Benforado: Let's hold on very specific ideas for now; we'll discuss those later. OSWER will now outline some of the ways it thinks Ptrack can fit into its strategic goals.

## **OSWER's Ideas for Working with Performance Track**

*Introduction -- Barry Breen, Deputy Assistant Administrator, OSWER*

We have broad representation from OSWER Office Directors at this meeting: all Offices are represented except Office of Emergency Management and Office of Federal Facilities. We didn't see any obvious "fits" with Ptrack and those offices, but we're happy to bring them in if we come up with ideas today. Our criteria for ideas for items to bring to the table: (1) might benefit a wide array of current (and potential) Ptrack members; (2) not already under exploration/development; (3) potential for near-term benefit -- though we're not averse to longer-term ideas; (4) fits within goals of Ptrack and OSWER.

*OUST Ideas -- Cliff Rothenstein, Director, Office of Underground Storage Tanks*

Revitalization is an important priority for OUST, particularly abandoned gas stations. While we recognize that no Ptrack member currently has an abandoned gas station, we still see opportunities to work with Ptrack. We seek members' comment on a potential "Adopt a Gas Station" (AGS) program: buy a site or provide resources to a city or other person in order to revitalize the property.

*OSW Ideas -- Matt Hale, Director, Office of Solid Waste*

Priority issues for OSW include: (1) Resource Conservation Challenge -- commitments to reduce priority chemicals, increase the recycling of municipal-type solid waste (e.g., electronic waste, paper) or look to the beneficial reuse/recycling of industrial wastes (e.g., a Ptrack member might facilitate community electronics recycling when it decommissioned its own computers or other electronics); and (2) corrective action and cleanup -- for Ptrack members, the lead regulator may consider using flexible results-based approaches, such as facility lead corrective action

agreements and reduced oversight, even if only for a few Ptrack members. Also mentioned current ongoing efforts to address Burden Reduction in current rulemaking effort and the importance of involving the states in deciding on what incentives they believe are appropriate. Regulatory incentives require careful consideration of what is appropriate for Ptrack only and what might be appropriate for all RCRA facilities.

*OLR Ideas -- Ed Chu, Director, Office of Land Revitalization*

Ptrack members should consider how land revitalization could fit into their operations; if not on their site, then on a site they purchase or partner with a city to purchase. Analogous to Lexus Certified Pre-Owned program, our "Ready for Reuse" certification is a technical determination to communicate that an owner has fulfilled requirements and the site is ready for sale or reuse. We've piloted the program in Region 6; it might also be a good fit within Ptrack. Land revitalization is a great opportunity for members to be good citizens in their community.

### **Members' Response to OSWER's Ideas**

Jay Benforado: Criteria guiding this brainstorm: (1) applicable to many members; (2) states will support and implement; (3) reduces transaction costs; (4) fits spirit and structure of Ptrack. Ideas related to Ptrack commitments should focus on measurement in terms of environmental outcomes and should account for members' willingness to use different commitments.

Member: For this AGS program to gain traction, EPA should sweeten the pot (e.g., grant dollars to aid in land purchase; tax incentives -- write-off cleanup costs; ease permit requirements for any permits required).

Member: AGS needs to address obvious liability issues. There are lots of people/groups out there "looking for deep pockets," and Ptrack members could be exposed.

Member: Liability is a major issue. We might be willing to assume the cost of a cleanup, but we'd never assume the liability.

Member: EPA mentioned a potential joining of Ptrack commitments and RCC, and a possible two-for-one credit which we support. Two-for-one Ptrack credit for RCC commitments is especially appealing to small companies that might have difficulty coming up with several commitments. With regard to community involvement, we have a community-based partnership for computer recycling. It has been very successful -- we love community-based incentives. This is a consortium of local industries managing their used computers -- rather than "community-based" in the sense that the consortium took computers from the community. Such a program might be expanded to community donations using a third party corporation to deal with liability issues.

Member: Solvent prices are skyrocketing. We're more interested than ever in an incentive that would facilitate solvent recycling.

OSWER: We acknowledge liability issues with AGS program; this is a very valid concern. It is not our intent to add liability. We will see what can be done to resolve liability issues. In addition, we appreciate members' willingness to make substantial financial commitments so long as EPA resolves liability issues.

**Recognition Ceremony for Infineon**, member which has taken advantage of RCRA incentive.

## **Members' Ideas for Working with OSWER**

*Introduction -- John Flatley, Performance Track Participants Association*

PTPA conducted a membership survey three years ago that identified 72 potential incentives across media. We used those as a starting point for today's meeting, and we're hoping to develop even more ideas.

*Details on Members' Ideas -- Vicki Fisher, Rockwell Collins*

Incentives are vitally important to the Ptrack program. Relief from transaction costs helps both EPA and members. Also, incentives help attract more facilities to join and help keep current members actively engaged. PTPA would like to discuss barriers and opportunities related to the following priority ideas:

- Exempt spent solvents from RCRA when put to beneficial reuse (e.g., fuel blending).
- Define "beneficial use," "byproduct," and "coproduct" to exclude each from classification as a solid waste at Ptrack facilities and allow for more flexibility in waste stream reuse.
- Combine all environmental permits (air, water, corrective action, etc.) into a single environmental permit administered through the Ptrack office.
- Extend the permit period from 5 to 10 years for Ptrack members and turn permit renewals into a notice of intent to renew.
- Waive all permit fees for Ptrack members.

Member: Explains the logistics/economics of how spent solvent recycling could work.

Member: It is critically important to have states on board with these incentives; they are worth very little until adopted.

State Environmental Program Representative: Waiving permit fees are difficult in states undergoing budget cuts. Perhaps we could reduce permit fees for Ptrack facilities; we do that already for facilities in our state performance-based program.

Member: "Operating efficiency" is a key measure related to our survival. If we undertake an environmental initiative that costs money, it is absorbed into our per-unit operating efficiency. We either "eat" those costs at the facility, pass it along to corporate, or pass it along to the consumer. It's a zero-sum game. So to the extent that you save me money through decreased reporting, increased recycling, etc., I'll invest half of it in environmental initiatives such as those listed by OSWER.

OSWER: A potential integrated permit incentive is complex and should be piloted before being expanded.

OPEI: Agreed, we are working with folks in Wales (UK), where they are moving towards a single-permit model, to identify opportunities to bring integrated permits to the U.S. In addition, the Environmental Results Program is piloting the single-permit concept with small U.S. companies.

Member: Current Ptrack incentives are sufficient to offset some of the program's additional requirements (e.g., reporting). Truly far-sighted incentives will make it profitable to be in Ptrack.

Member: The paperwork involved with paying Kentucky's nominal (\$24) RCRA registration fee costs the company substantially more than the fee itself. We suggest a fee period covering multiple permit years.

OSWER: Burden Reduction Rule gets at some of these reporting/fee issues. We are willing to have more dialogue. This also needs to be worked out with states, which assess most permit fees. A related question: would reporting efficiencies translate to EHS staff looking for more opportunities for environmental improvement, or would they lead to EHS staff cuts?

OSWER: Did the PTPA workgroup discuss the notion of facility incentives that lead to community benefits (e.g., notion of putting half of cost savings toward environmental initiatives)?

Member: Ptrack facilities are already undertaking activities that benefit local facilities; we deserve additional incentives regardless.

Member: We would like to see EPA address two burdensome areas. First, anything that touches "listed waste" is automatically determined to be contaminated; need to better differentiate between types of listed waste. Second, requirements associated with post-closure requirements are inflexible and burdensome.

OSWER: We are interested in the details of the concern on post-closure requirements, since there is considerable flexibility in the regulations already, and the company's issues could perhaps be worked out with the state.

## **Points of Consideration from the Morning Session**

Jay Benforado led a brainstorming session on the most important ideas discussed in the morning, working around the table to get each participant's thoughts.

- Not sure that Ptrack "can be a good thing for all facilities." Broad incentives might not get that far; need to acknowledge variation among facilities.
- Solvent recycling.
- Decrease transaction costs.
- Integrated permits.
- Ensure that states are on board.
- Link between Ptrack and communities.
- Points of overlap between Ptrack and OSWER: revitalization and UST.
- Need to address liability issues in "Adopt a Gas Station" and similar efforts.
- Reporting burden reduction: increase permit terms, decrease "manpower."
- Fast-track the DSW rule; can't wait until the end of 2006.
- Focus incentives on what is appropriate for excellent facilities; many lesser incentives should be available to all.
- Facilities should take active role "outside the fenceline" in their community.
- Improve recognition: EPA advocacy on members' behalf with state and local governments.
- "Franchise model" for Ptrack: allow states to create incentives and have EPA "recognize" them as part of Ptrack.
- Intersection of land revitalization and community involvement; communities care about what happens.
- Need to use momentum created today to encourage states to implement incentives; to support/promote implementation, use forthcoming State/EPA workgroups established to respond to ECOS report on ensuring the success of Ptrack and state performance-based programs.
- Expand use of pilots as a means of testing innovative concepts.
- Use this meeting as the beginning of dialogue; want continued involvement of State/EPA workgroup.
- Expand EPA advocacy for members; some states don't know what Ptrack is.

OECA: We understand liability concerns associated with Adopt a Gas Station and property cleanup, and we offer our services in helping to address/resolve them. We can't promise full exemption from liability, but we'll work to clarify liability and give exemptions as appropriate.

### **Important Themes -- Jay Benforado**

- State Implementation: Use the EPA/State workgroup to drive state implementation.
- Resource Conservation Challenge: Potential two-for-one commitments.
- Community Involvement: Facilities get credit for looking "beyond the fenceline." AGS cannot also be "Adopt the Liability." (It was noted that moving in this direction would require the Ptrack program to change since the current program

requires that all commitments members identify are to be accomplished at the facility.)

- Burden Reduction Rule
- Other: Integrated permits, corrective action.
- OSWER: It was noted that it very unlikely that EPA could fast-track the DSW rule for Ptrack members any sooner than the current schedule of fall of 2006. Thus, that is not an area that we are likely to pursue.

## **Next Steps**

State Environmental Program Representative: Use EPA Regions as intermediaries. Regions can use PPAs/PPGs to implement Ptrack incentives.

OPEI: Use State/EPA workgroup to raise awareness and facilitate adoption of incentives.

OSWER: Important ECOS meeting in two weeks.

State Environmental Program Representative: Develop incentives for smaller members.

Member: Form a workgroup related to the RCC and Ptrack commitments.

Member: PTPA has a state workgroup as well; we invite members to join.

Member: Need to coordinate the various workgroups.

OSWER: Community involvement is key.

Member: Develop actionable items, with timelines, to pass to meeting attendees.

## **Closing Comments**

Jay Benforado closed the meeting by thanking everyone for attending. OSWER and PTPA thanked each other.

## **Meeting Attendees**

### **PERFORMANCE TRACK MEMBERS**

1.	Soma Chengalur, PhD	Eastman Kodak Company
2.	SeJohn Emmons	International Rectifier
3.	Maryalice Fischer	National Energy & Gas Transmission, Inc.
4.	Vicki Fisher	Rockwell Collins, Inc.
5.	Jim Foster	Emcor Facilities Services, Inc
6.	Michael J. Green, PE	NASA
7.	Jesse Hunter	Bridgestone/Firestone, Inc.
8.	L. Glen Kurowski	Monsanto Company
9.	Ann Lee-Jeffs	Pfizer
10.	Tom Murphy	Montenay Power Corporation
11.	Terry C. Persaud	Marathon Ashland Petroleum LLC
12.	Debra Pulpi	Teradyne Inc.
13.	Charlie Souders	Pfizer, Inc.
14.	Mr. Jeffrey Shumaker	International Paper
15.	Dennis Slade	Infineon
16.	David Spanfelner	DuPont Wilmington, DE
17.	Steven R. Woodbury	U.S. Department of Energy
18.	Melissa Wiegand	Temple Inland

### **PERFORMANCE TRACK NETWORK PARTNERS**

19.	Robert Elam	American Chemistry Council
20.	Fern Abrams	IPC (The Assn Connecting Electronics Industries)
21.	Dave Darling	National Paint & Coatings Association
22.	Ed Herbert	National Ready Mixed Concrete Association
23.	John S. Hayden	National Stone, Sand & Gravel Association
24.	Amy Blankenbiller	North American Die Casting Association
25.	John Flatley	Performance Track Participants Association
26.	Marcia Y. Kinter	Screenprinting & Graphic Imaging
27.	Eric Stuart	Steel Manufacturers Association
28.	Leslie Kordela	Wildlife Habitat Council

### **STATE REPRESENTATIVES**

29.	Stephen A. Cobb	Alabama DEM, ASTSWMO
30.	Andy Shivas	Tennessee DEQ, ASTSWMO
31.	Jeffery Steers	Virginia DEQ
32.	Kerry Callahan	ASTSWMO Staff

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**OFFICE OF SOLID WASTE AND EMERGENCY RESPONSE (OSWER)**

33.	Tom Dunne	OSWER, Acting Assistant Administrator
34.	Barry Breen	OSWER, Dep. Assistant Administrator
35.	Edward Chu	Land Revitalization, Director
36.	Mike Cook	OSRTI, Director
37.	Matt Hale	OSW, Director
38.	Cliff Rothenstein	OUST, Director
39.	Sammy Ng	OUST, Dep. Director
40.	Matt Straus	OSWER
41.	George Faison	OSW
42.	Sonya Sasseville	OSW
43.	Jim O’Leary	OSW

**OFFICE OF ENFORCEMENT COMPLIANCE AND ASSURANCE (OECA)**

44.	Caroline Makepeace	OPPAC
45.	Vishnu Katari	OCE-RCRA

**OFFICE OF POLICY, ECONOMICS, AND INNOVATION (OPEI)**

46.	Stephanie Daigle	OPEI, Acting Associate Administrator
47.	Geoffrey Anderson	OPEI
48.	Jay Benforado	NCEI, Director
49.	Chuck Kent	OBCI, Director
50.	Bill Hanson	OBCI, Associate Director
51.	Dan Fiorino	PID, Director
52.	Chad Carbone	PID
53.	Brenda Collington	PID
54.	Kevin Easley	PID
55.	David Guest	PID
56.	Richard Kashmanian	PID
57.	Shannon Kenny	OPEI
58.	Susan McLaughlin	PID
59.	Hetal Mehta	PID
60.	Bob Sachs	PID
61.	Julie Spyres	PID
62.	Andy Teplizsky	PID
63.	Tab Tesnau	PID
64.	Colin C. Macdonald	IEc contractor

## List of Acronyms

AGS	"Adopt a Gas Station" Program
DSW	Definition of Solid Waste
ECOS	Environmental Council of the States
EHS	Environmental Health and Safety
EPA	U.S. Environmental Protection Agency
OBCI	Office of Business and Community Innovation
OCE	Office of Civil Enforcement
OEM	Office of Emergency Management
OLR	Office of Land Revitalization
OPEI	Office of Policy, Economics, and Innovation
OSW	Office of Solid Waste
OSWER	Office of Solid Waste and Emergency Response
OPPAC	Office of Planning, Policy Analysis and Compliance
OUST	Office of Underground Storage Tanks
NCEI	National Center for Environmental Innovation
PID	Performance Incentives Division
PTPA	Performance Track Participants Association
Ptrack	National Environmental Performance Track
RCC	Resource Conservation Challenge
RCRA	Resource Conservation and Recovery Act
UK	United Kingdom
UST	Underground Storage Tank